

Chapter 987 TRANSIENT MERCHANT ACTIVITY AND GARAGE SALES*

***Editor's note:** G.O. 51, 2001, § 2, adopted June 4, 2001, 183, 1997, states that G.O. 183, 1997, is amended by the deletion of the expiration date of July 1, 2002, as provided in section 29 thereof. It is the intent of this ordinance that the provisions of G.O. 183, 1997, which amended the "Municipal Code of Indianapolis and Marion County, Indiana" and the "Revised Code of the Consolidated City and County" shall not expire, but shall remain in full force and effect, and as they may have been amended, renumbered, or recodified since the effective date thereof.

Cross references: Junk dealers and peddlers, ch. 903; pawnbrokers and dealers in secondhand goods, ch. 951.

Article I. Transient Merchant Activity

Sec. 987-101. Definitions.

Sec. 987-102. License required; fee; exempt activities.

Sec. 987-103. License information required.

Sec. 987-104. Issuance of license; term.

Sec. 987-105. Transfer prohibited.

Sec. 987-106. Restrictions on transient merchant activity.

Sec. 987-107. Enforcement and penalties.

Article II. Garage Sales

Sec. 987-201. Definitions.

Sec. 987-202. Limitation on number and duration of garage sales.

Sec. 987-203. Restrictions on garage sales.

Sec. 987-204. Reserved.

Sec. 987-205. Penalties for violations.

ARTICLE I. TRANSIENT MERCHANT ACTIVITY

Sec. 987-101. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section.

Outdoor sales location means and includes any area outside a permanent building or structure, and which is located either:

- (1) In the public right-of-way; or
- (2) Upon property not owned or leased for a term of one (1) year or more by the person engaged in the sale of goods, where the sale of goods occurs immediately adjacent to, or is visible from, the public right-of-way.

Sale of goods means and includes the display, offer, or sale of merchandise of any kind by a person who occupies or uses any fixed location of unimproved real property, temporary or mobile building or structure, vehicle, cart, stand or table for the purpose of displaying, offering, or selling such merchandise; however, a sale from a vending machine shall not be considered a *sale of goods*.

Transient merchant activity means the sale of goods from an outdoor sales location.

(G.O. 183, 1997, § 17)

Cross references: Definitions generally, ch. 102.

Sec. 987-102. License required; fee; exempt activities.

(a) It shall be unlawful for a person to engage in transient merchant activity in the city without first having obtained a license therefor from the controller. The annual fee for registration of transient merchant activity shall be twenty dollars (\$20.00).

(b) Notwithstanding the provisions of subsection (a) of this section, a person is not required to obtain a license under this article if the person's transient merchant activity consists solely of the following:

- (1) Transient merchant activity which is authorized by a license obtained under this article by another person;
- (2) The operation of a licensed vendor cart, registered sidewalk cafe, or other activity authorized under Chapter 961 of the Code;
- (3) The operation of a food vending vehicle which meets the requirements of section 611-501 et seq. of the Code;
- (4) The sale of goods to benefit a charitable cause, organized and conducted by an organization that is exempt from the Indiana gross retail tax under IC 2.5-5-26, provided that:

- a. The sale of goods occurs for no more than thirty (30) days in a calendar year;
- b. No more than two (2) persons engage in the sale of goods at any one (1) outdoor sales location; and
- c. Each person who engages in the sale of goods has in his or her possession a card or letter which identifies that person as being authorized by the organization

to engage in such sales;

(5) A garage sale, as provided under Article II of this chapter;

(6) An auction of goods which originate primarily on the property where the auction occurs, and which were not moved to the property from another location for the purpose of sale at the auction, conducted by an auctioneer licensed under IC 25-6.1;

(7) The sale of goods on commercial property which occurs during the regular hours of operation of the business located on the property; or

(8) The sale of newspapers.

(c) If the transient merchant activity described in subsections (b)(4) and (b)(7) of this section occurs on private property, it shall not be exempt from the license requirement unless the person engaged in the transient merchant activity has written consent, dated and signed by the property owner, to use the property.

(G.O. 183, 1997, § 17; G.O. 87, 2004, § 18)

Sec. 987-103. License information required.

(a) A person who wishes to engage in transient merchant activity shall file a verified license application form with the controller. In addition to the information required by section 801-203 of the Code, the form shall include the following information:

(1) The name and address of each person expected to engage in the transient merchant activity;

(2) A description of the goods or services which will be displayed, offered, or sold;

(3) Whether the outdoor sales location where the transient merchant activity will occur is or is not public right-of-way; and

(4) If the outdoor sales location is not public right-of-way, written proof that the owner or lessee of the location has authorized the applicant to use the location for transient merchant activity.

(b) It shall be unlawful for an applicant under this article to provide false information on the license application form.

(G.O. 183, 1997, § 17)

Sec. 987-104. Issuance of license; term.

(a) The controller shall issue a license to each qualified applicant under this article, if:

(1) Applicable zoning ordinances do not prohibit transient merchant activity at the proposed outdoor sales location; and

(2) In the opinion of the controller, the transient merchant activity does not pose a threat to the public health, safety or welfare, and would not significantly inconvenience nearby residents or other members of the public.

(b) A license issued under this article shall be valid for a term of one (1) year from the date of issuance. A licensee who wishes to continue transient merchant activity after the expiration of the license shall file a new license application form with the controller.

(G.O. 183, 1997, § 17)

Sec. 987-105. Transfer prohibited.

A license issued under this article may not be transferred by the licensee or the controller to any other person.

(G.O. 183, 1997, § 17)

Sec. 987-106. Restrictions on transient merchant activity.

- (a) It shall be unlawful to engage in transient merchant activity in such a manner as to:
 - (1) Impede the flow of pedestrian or vehicular traffic, or obstruct or hinder the view of pedestrians or motorists, on any street, alley, sidewalk or right-of-way;
 - (2) Create an unsafe condition or situation; or
 - (3) Generate litter by the licensee or the licensee's customers, which is not promptly removed by the licensee.
- (b) Transient merchant activity shall not take place within the travel portion of any street or alley, or upon any median thereof, while such street or alley is open to vehicular traffic.
- (c) In addition to the restrictions stated in subsection (a) of this section, the controller may impose other reasonable restrictions on transient merchant activity by stating the restrictions on the license.

(G.O. 183, 1997, § 17)

Sec. 987-107. Enforcement and penalties.

- (a) It shall be the duty of each law enforcement officer of the city or county to determine that persons engaged in transient merchant activity are licensed with the controller, and otherwise in compliance with the provisions of this article.
- (b) A law enforcement officer who issues a complaint and summons ticket form to a person for a violation of this article, and who has reason to believe the violation will continue after issuance of the ticket, may take possession of any tangible goods being offered for sale. Such goods may be retained by the city until the controller issues the person a license under this article or the enforcement action is concluded, whichever occurs first.
- (c) A person who violates any provision of this article shall be punishable as provided in section 103-3 of the Code; provided, however, the fine imposed for such violation shall not be less than two hundred dollars (\$200.00), and each day that an offense continues shall constitute a separate violation.

(G.O. 183, 1997, § 17)

ARTICLE II. GARAGE SALES

Sec. 987-201. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section.

Advertised means and includes any visible evidence that property is being sold.

Garage sale means and includes an advertised sale of used, tangible personal property in the city, at a location which is zoned as a dwelling district or planned unit development district under Chapter 731 of the Code, or otherwise is used primarily as a residence.

(G.O. 183, 1997, § 17)

Cross references: Definitions generally, ch. 102.

Sec. 987-202. Limitation on number and duration of garage sales.

(a) It shall be unlawful for a person to hold or allow to be held more than two (2) garage sales at the same location during the same calendar year.

(b) It shall be unlawful for a person to hold or allow to be held a garage sale with a duration of more than three (3) consecutive days.

(G.O. 183, 1997, § 17)

Sec. 987-203. Restrictions on garage sales.

(a) It shall be unlawful for a person to offer for sale, or to sell, at a garage sale any used, tangible personal property which previously was purchased for the purpose of resale.

(b) It shall be unlawful for a person to hold a garage sale:

(1) Within the travel portion of any street or alley, or upon any median thereof, while such street or alley is open to vehicular traffic; or

(2) Upon any public sidewalk or right-of-way in such a manner as to impede the flow of pedestrian traffic.

(c) If a garage sale is advertised by the use of signs, the number, size, location, and duration of such signs shall comply with section 2.10(C) of the "Sign Regulations of Marion County," Appendix D, Part 19.

(G.O. 183, 1997, § 17; G.O. 74, 1999, § 1)

Sec. 987-204. Reserved.

Editor's note: G.O. 74, 1999, § 2, passed by the city-county council on June 21, 1999, repealed § 987-204, which pertained to removal of advertising required and derived from G.O. 183, 1997, § 17.

Sec. 987-205. Penalties for violations.

A person who violates any provision of this article shall be punishable as provided in section 103-3 of the Code; provided, however, the fines imposed for such violations shall be as follows:

- (1) For the first violation, not less than fifty dollars (\$50.00);
- (2) For the second violation, not less than seventy-five dollars (\$75.00); and
- (3) For the third and all subsequent violations, not less than two hundred dollars (\$200.00).

(G.O. 183, 1997, § 17)